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PREPARATIONS FOR THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT ON THE BASIS OF GENERAL ASSEMBLY RESOLUTION 44/228 AND TAKING INTO ACCOUNT OTHER RELEVANT GENERAL ASSEMBLY RESOLUTIONS:

CROSS-SECTORAL ISSUES

Progress Report on Institutions

Report of the Secretary-General of the Conference

As the recommendations of the Preparatory Committee in respect of the important question of institutional arrangements will arise primarily from the needs identified in consideration of the substantive issues and related financial and other cross-sectoral measures, such recommendations will necessarily follow consideration of these other matters. This report focuses on institutional issues primarily from the United Nations perspective and does not deal with the important questions of institutional change required to give effect to integration of environment and development at the national level which are dealt with extensively in the report of the World Commission on Environment and Development. These issues are of fundamental importance as the United Nations institutional structure must necessarily be geared to serve and relate to the needs and structures of national Governments. The Preparatory Committee will undoubtedly wish to consider the institutional changes required at the national level before crystallizing its recommendations on this critical set of issues.

The work programme of the Secretariat is designed to ensure that the Preparatory Committee will have before it the relevant information and analysis required to assist it in making these important recommendations.

Following is a summary of some of the principal emerging institutional issues, and questions related to them, which are likely to require consideration by the Preparatory Committee:

1. The Role of the United Nations Environment Programme

The important accomplishments of UNEP and the need for substantial strengthening of its mandate and capacities is widely acknowledged. This was recommended by WCED and agreement on it is expected to be one of the most important results of UNCED. In formulating its recommendations on this key issue the Preparatory Committee will need to consider a number of questions that will have an important bearing on them. These include:

(i) The nature and extent of UNEP's mandate - should it continue to be explicitly environmental, concentrating on further development of the assessment, management and support responsibilities originally assigned to it? How should its mandate relate to development? Should it concentrate on being the environmental "voice and conscience" of the United Nations system and the primary source of leadership in ensuring that the environmental dimension is integrated fully and effectively into United Nations policies and programmes? Or should it also include an active development role in respect of issues, like desertification, in which it has taken a lead at the level of diagnosis and programme development?

(ii) How would UNEP's role relate to or be affected by other proposals for establishment of environmental institutions with regulatory and enforcement powers that go well beyond UNEP's existing mandate or powers, as referred to in Section 3 below?

(iii) Should UNEP's status within the United Nations system be changed and/or upgraded? Should UNEP become a specialized agency or would this have the effect of "sectoralizing" the environment within the United Nations system? As an alternative, could UNEP be accorded the status and attributes of a specialized agency under conditions that would facilitate the integration of environment to the development and other relevant programmes of activities of the United Nations system?

(iv) What changes, if any, are needed in the Environment Fund of UNEP, particularly in light of the issues raised in Section 1 of the Progress Report to the Preparatory Committee on Financial Resources (Document A/CONF.151/PC/18)?

(v) The extent to which the significant capacities UNEP has developed in respect of negotiation and administration of legal instruments in the environmental field should be strengthened and what changes this may require in UNEP's organization and structure.

(vi) The need to strengthen and supplement the assessment functions of UNEP by establishment of a Global Risks Assessment Programme as recommended by the World Commission on Environment and Development and the changes this would require in respect of UNEP's existing assessment functions and the related functions of other agencies, organizations and programmes.

2. Integration of Environment and Development

The need to integrate environment and development at all levels of policy and decision-making as well as their implementation in programmes and projects is the central theme of UNCED and the institutional arrangements required to give effect to this will be one of the principal areas for consideration by the Preparatory Committee. The following are amongst the important questions it may wish to consider in this respect:

(i) To what extent should the capacities of the development agencies, organizations and programmes of the United Nations system be strengthened to enable them to integrate the environmental dimension into their respective programmes and activities? Given the substantial funding of environment-related development projects now being provided by UNDP, what should its future role be in respect of such integration and what implications does this have for its relationship with UNEP and other United Nations system bodies?

(ii) How can such agencies, organizations or programmes be best made accountable for the environmental impacts and implications of their respective programmes and activities? Should the former Environment Co-ordination Board, or something like it, be re-established to facilitate this? To what extent can the budgeting and resource allocation processes be utilized for this purpose?

(iii) Can the distinction between environmentally-oriented activities and developmentally-oriented activities be maintained in an action programme that addresses all the objectives indicated in General Assembly resolution 44/228? Are new and improved mechanisms required to facilitate the co-ordination of policies, programmes and activities which integrate environment and development and involve the mandates and capacities of several agencies, organizations and/or programmes of the United Nations system, as recommended by WCED? Could these functions best be performed through the ACC or through establishment of a United Nations Board for Sustainable Development as recommended by the World Commission on Environment and Development? What should be the role of the Secretary-General and of the Director-General for Development and International Economic Co-operation?

(iv) How can co-ordination be improved at the level of the governing bodies of the relevant agencies, organizations and programmes of the United Nations system?

3. Possible New Environmental Authority and/or Forum

Some ideas have been advanced in general terms, as at the Hague Conference in 1989, as to the possibility of establishing a new institutional authority within the framework of the United Nations either by strengthening existing institutions or by creating a new institution. It has been suggested that certain decision-making and executive functions of a supra-national nature might be delegated to such an authority.

Also, the need for a high-level forum within the United Nations to consider environment and development issues in relation to other broad economic, social, humanitarian and security concerns with which they interact has been the subject of considerable discussion. A number of proposals and ideas in this respect have been advanced, again in general terms.

Proposals for establishment of either a global environmental authority or a high-level forum for policy overview and integration would clearly raise questions of great importance including the following:

(i) What would be the specific mandate and functions of such bodies and how would these relate to the mandates and functions of other members of the United Nations system, particularly UNEP?

(ii) Is it desirable and/or feasible to consider establishment of a new body to which powers of a supra-national character would be delegated or should such a mandate be entrusted to UNEP?

(iii) In respect of a forum for policy review and integration, could the need for this be met by appropriate changes in the mandates of existing mechanisms as, for example, the Trusteeship Council, the Security Council and the Economic and Social Council?

(iv) How would such a body be serviced at the Secretariat level? By a wholly new secretariat or by a secretariat consisting of personnel made available from existing agencies, organizations and programmes?

4. Institutional Implications of International Agreements

There is an increasing tendency for environment and related issues to be dealt with through legal agreements which incorporate special institutional and financial measures. The relationship of these to existing institutions will undoubtedly be the subject of further attention in the future.

Also, the prospect of moving towards greater enforcement of legal instruments will inevitably give rise to the need for more effective means of enforcement and settlement of disputes.

In the meantime, many of the most important agreements under which practical programmes and activities are carried out are of a non-treaty, voluntary nature. These include such important programmes as WHO's Environmental Health Programme, FAO's Agrarian Reform Programme, the Programme of Action to Combat Desertification, the Tropical Forest Action Plan and the International Drinking Water Supply and Sanitation Decade, to name but a few. Such programmes, while non-binding in the legal sense, provide extremely important means of addressing environment and related development issues and often involve co-operative arrangements amongst several agencies.

It will be important in respect of these matters for the Preparatory Committee to consider such questions as:

(i) How can the institutional arrangements made pursuant to legal agreements be most effectively provided for and co-ordinated with other related institutions of the United Nations system and the inter-governmental community more generally?

(ii) Should more use be made of the International Court of Justice and the Permanent Court of Arbitration and their capabilities strengthened to enable them to undertake a more active role in respect of enforcement and settlement of disputes?

(iii) Should new mechanisms be established under United Nations auspices of a less formal nature to undertake mediation and arbitration of environment and related development disputes?

(iv) How can non-treaty, voluntary programmes be more effectively utilized to integrate environment and development? What can be done to ensure performance in respect of such agreements?

5. Role of Non-Governmental Actors

The great importance of non-governmental organizations in virtually every aspect of the environment-development relationship is now broadly recognized and encouraged. Their influence extends from their roles as sources of scientific, professional and technical knowledge and advice as well as operational capacity, to developing public awareness and political will and their advocacy role in respect of policy formulation. All these will continue to grow. This makes it more and more important that they be brought into a meaningful and effective set of relationships with the official organizations of government at both national and international levels, one which respects and maintains their independent character while making full use of the resources, experience and capacities which they represent. The Preparatory Committee may wish to consider the ways in which these relationships can best be fostered and utilized, and including the following questions:

(i) What new arrangements, or changes in existing arrangements, are required to provide for a more productive and effective relationship between non-governmental organizations and the agencies, organizations and programmes of the United Nations system at the deliberative and the operational level?

(ii) To what extent do the experience of the Bergen Conference of the ECE region and preparations for UNCED provide useful lessons in respect of NGO participation in the deliberative processes of the United Nations?

(iii) What lessons are to be learned from the co-operation of the International Council of Scientific Unions and the International Union for Conservation of Nature and Natural Resources with UNEP, UNESCO, WMO and others in respect of such important environmental issues as climate change, biological diversity and conservation of endangered species?

(iv) To what extent does the experience of UNEP and such ad hoc activities as the African Famine Emergency of 1983-1986 provide useful lessons in respect of co-operation at the operational and programme levels?

6. Role of Multilateral Financial Institutions and Multilateral and Bilateral Development Assistance Agencies

The World Bank, the International Monetary Fund, the United Nations Development Programme and the Regional Development Banks have an especially important influence on economic development as do other multilateral and bilateral development assistance agencies. Accordingly, the successful integration of environment and development will depend to a significant extent on the leadership and the policies and practices of these organizations. The Preparatory Committee may find it useful to examine the role of these organizations and the existing institutional modalities through which they carry out their important roles in this respect and in particular:

(i) The adequacy of existing arrangements for consultation and co-ordination of environmental and related development policies and procedures amongst multilateral institutions, as through the Development Committee of the World Bank and the Committee of International Development Institutions on Environment (CIDIE), and the need for supplementing or strengthening these arrangements;

(ii) The adequacy of existing arrangements for co-ordination of policies and programmes in respect of integration of environment with development amongst bilateral agencies through the Development Assistance Committee of the OECD and possible means for supplementing or strengthening these arrangements.

7. Regional Institutions

Some of the most important environment and development issues requiring international co-operation are regional in character. These include management of international river systems and other important ecosystems that extend into the jurisdictions of more than one State as well as the growing number of transboundary pollution issues. In each region there are a number of existing institutions and agreements which can make important contributions to integration of environment and development in their particular areas of interest and expertise. These range from the Mekong Committee and the International Centre for Integrated Mountain Development (ICIMOD) in Asia, the Southern African Development Co-ordination Committee (SADCC) and the Inter-Governmental Committee Against Drought in the Sahel (CILSS) in Africa, and the Amazon Co-operation Treaty and the Andean Pact in Latin America, as well as the various regional seas programmes set up by UNEP. It would be important for the Preparatory Committee to examine such existing institutional arrangements and consider needs for supplementing and/or strengthening them and, in the case of non-United Nations organizations, of strengthening their co-operation and co-ordination with the United Nations.

In addition, it is often from the regional level that technical co-operation and support can best be provided to national Governments and institutions of the region in responding to their needs for assistance in integration of environment with various aspects of their national development.

It would undoubtedly be useful for the Preparatory Committee to examine existing regional-level institutional arrangements and capacities for meeting these needs and consider requirements for adding to and/or strengthening them. In this respect it may wish to give special consideration to the potential for this purpose of the Sustainable Development Network initiated by UNDP.

8. Overall Context

It will be evident that this extensive range of institutional issues cannot be considered by the Preparatory Committee in isolation from the broader needs for organizational change and strengthening within the United Nations system as a whole which has been the subject of a great deal of study and dialogue in recent years. That is not to say that the institutional changes that the Preparatory Committee may recommend to give effect to the integration of environment and development within the United Nations system must await or depend on agreement on broader changes in or restructuring of the system. But the kind of changes that the Preparatory Committee will be considering in this respect are likely to be sufficiently extensive and pervasive that they will in themselves have an important impact on the system as a whole and will need, therefore, to be considered in that larger context.

For example, institutional arrangements required to give effect to the environment-development relationship inevitably raise new questions about the role of the Economic and Social Council, about the relationship between the United Nations and its specialized agencies and the role of the Administrative Committee for Co-ordination as well as arrangements and modalities for co-operation and co-ordination with other intergovernmental and non-governmental organizations. In considering the institutional issues it will be addressing in this broader context the Preparatory Committee will have the benefit of a substantial body of knowledge and analysis available from previous studies and deliberations on these matters.